



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Carmen Rubio, Commissioner
Rebecca Esau, Director
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Date: May 15, 2023
To: Interested Person
From: Matt Wickstrom, Land Use Services
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NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The mailed copy of this document is only a summary of the decision. The reasons for the decision are included in the version located on the BDS website <http://www.portlandonline.com/bds/index.cfm?c=46429>. Click on the District Coalition then scroll to the relevant Neighborhood, and case number. If you disagree with the decision, you can appeal. Information on how to do so is included at the end of this decision.

CASE FILE NUMBER: LU 23-018278 AD

GENERAL INFORMATION

Owners/Applicants: Aurelia Flaming and Roger Bellin,
1332 SE Salmon St | Portland, OR 97214
Phone: 310-776-5245 | Email: 1332salmon@gmail.com

Site Address: 1332 SE SALMON ST
Legal Description: BLOCK 289 N 13.2' OF E 1/2 OF LOT 7 E 1/2 OF LOT 8,
HAWTHORNE PK
Tax Account No.: R366703440
State ID No.: 1S1E02BD 04500
Quarter Section: 3131

Neighborhood: Buckman, contact Nick Olson at buckmanlandusepdx@gmail.com
Business District: None
District Coalition: Southeast Uplift, contact Matchu Williams at matchu@seuplift.org

Zoning: R2.5 (Residential 2,500)
Case Type: AD – Adjustment Review (1 Adjustment)
Procedure: Type II, an administrative decision with appeal to the Adjustment Committee.

Proposal:

The applicants propose to add a driveway and parking space accessed from SE Salmon Street. The driveway will be 19 feet and 6 inches deep measured from the SE Salmon Street property line. The Portland Zoning Code requires that parking spaces for homes be at least 18 feet deep and does not allow parking spaces within the first 10 feet from the front lot line unless that parking space is located behind another parking space that is outside of the first 10 feet. Due to the location of the house and lack of area between it and the west property line, the proposed parking space will not be located outside of the first 10 feet measured from the front property line. The applicants request one Adjustment to allow the 18-foot-deep parking space to be located 1-foot 6 inches from the front lot line rather than the required 10 feet (33.266.120.C.2.a).

Relevant Approval Criteria:

To be approved, this proposal must comply with the Adjustment Review approval criteria in Zoning Code Section 33.805.040.A-F.

ANALYSIS

Site and Vicinity: The 3,160 square foot corner lot is developed with a two-story single-dwelling home. The home is built up from the street and due to the close location of another house behind it, doesn't have much of a backyard. The home is built 7 feet 8 inches away from the west property line where it is adjacent to a driveway on the neighboring property. The site does not currently have a driveway.

For the purpose of this land use review, the vicinity is defined as the area within 400 feet of the site. The surrounding vicinity is developed with a mix of single-dwelling homes, duplex, older low-scale apartment buildings newer medium-scale apartment buildings and warehouse buildings on SE 12th Ave. Some homes in the vicinity have nonconforming garage entrance setbacks where the garage is built closer to the property line than the Portland Zoning Code allows today or onsite parking located in the front setback. Other homes in the vicinity have driveways that meet the current zoning requirements.

Zoning: The site is zoned R2.5 (Residential 2,500). The R2.5 zone is the most dense of the single-dwelling zones. The purpose of the single-dwelling zones is to provide housing opportunities for individual households.

Land Use History: City records indicate there are no prior land use reviews for this site.

Agency Review: A "Notice of Proposal in Your Neighborhood" was mailed **April 7, 2023**. The following Bureaus have responded with no issues or concerns:

- The Life Safety Division of BDS responded with no objections (Exhibit E.1);
- The Portland Bureau of Transportation responded with a review for potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations, Title 33, Title 17 and for potential impacts upon transportation services. The response states no objections (Exhibit E.2);
- The Bureau of Environmental Services responded that the proposal doesn't appear to create more than 500 square feet of new additional impervious surface so pollution reduction and flow control requirements of the Stormwater Management would not apply (Exhibit E.3); and
- The Site Development Section of BDS, Fire Bureau and Water Bureau responded with no concerns (Exhibit E.4).

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 7, 2023. No written responses have been received.

ZONING CODE APPROVAL CRITERIA**33.805.040 Approval Criteria**

Adjustment requests will be approved if the applicant has demonstrated that approval criteria A through F, below, have been met.

- A.** Granting the Adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: The purpose of the requirement for the parking space setback to be 10 feet from a front lot line when the parking space is not located behind another parking space outside the 10-foot setback is stated in Zoning Code Section 33.266.120.A:

33.266.120 Development Standards for Houses, Duplexes, Triplexes and Fourplexes:

The size and placement of vehicle parking areas are regulated in order to enhance the appearance and pedestrian experience of neighborhoods.

Staff finds the proposal to reduce the parking space setback from 10 feet to 1-foot 6 inches equally or better meets the purpose statement above for the following reasons:

- The driveway will be mostly offset from the front of the house due to the 7 feet 8 inch setback of the house from the west property line and proposal to locate the driveway adjacent to the property line. This creates for a more attractive appearance – were the driveway located in front of the house, it would appear as if a car were parked in the front yard.
- The landscape strip between the SE Salmon St. property line and the sidewalk is 3 feet deep which will allow for the visual perception that a car parked in the driveway is further from the pedestrian realm than it is because the 18-foot deep parking space will be 4 feet 6 inches from the sidewalk.
- The 7-foot 8-inch setback of the house from the west property line will allow for the front of a car to overhang the end of the driveway so that it is further from the SE Salmon St. property line without interfering with the driver and passenger doors.
- There are several other instances of other nearby homes having on-site parking spaces either located in garages which don't meet the required 18-foot setback from the street property line or on-site parking spaces being located in the front setback; therefore, this proposal to locate the on-site parking space in the front setback does not conflict with an established pattern in the vicinity.

Based on the information above and primarily because the proposed parking space will primarily be offset from the front of the house as well as the varied pattern of on-site parking locations in the neighborhood, the proposal to locate the on-site parking space 1-foot 6 inches from the front property line equally or better meets the purpose of the standard. This criterion is met.

- B.** If in a residential, CI1, or IR zone, the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS, C, E, I, or CI2 zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: The proposed Adjustment will not significantly detract from the livability or appearance of the residential area. As mentioned above, although the proposed on-site parking space will be located in the front setback, it will be offset from the front of the house thus not resulting in the appearance of a parking space in the front yard of the house. The vicinity contains a number of on-site parking spaces that are either in garages with nonconforming garage entrance setbacks or other on-site parking spaces located in the front setback.

Furthermore, there is an additional 3 feet of right-of-way between the SE Salmon St. property line and the sidewalk which to a passerby would appear as part of the site. In addition, the 7-foot 8-inch space between the side of the house and the west property line will allow the hood of a vehicle to overhang the end of the driveway which will allow a vehicle parked in the driveway to be even further from the SE Salmon St. property line. Both of these factors can result in the appearance of a vehicle parked in the driveway to be further from the SE Salmon St. property line than is proposed as part of this land use review.

Based on this information, the proposal will not significantly detract from the livability or appearance of the residential area and this criterion is met.

- C.** If more than one Adjustment is being requested, the cumulative effect of the Adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Only one Adjustment is requested, therefore this criterion is not applicable.

D. City-designated scenic resources and historic resources are preserved; and

Findings: City-designated scenic resources are identified on the official zoning maps with a lower case “s,” and historic resources are identified either with a dot or as being within the boundaries of a Historic or Conservation district. As there are no scenic resources or historic resources mapped on the subject site, this criterion is not applicable.

E. Any impacts resulting from the Adjustment are mitigated to the extent practical; and

Findings: Staff has not identified any negative impacts on neighbors or on the neighborhood specifically resulting from this Adjustment request especially considering the...

F. If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable;

Findings: The site is not located in an environmental zone, therefore this criterion is not applicable.

DEVELOPMENT STANDARDS

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicants request one Adjustment to allow an 18-foot-deep parking space to be located 1-foot 6 inches from the front lot line rather than the required 10 feet (33.266.120.C.2.a). Based on the information in this report, the parking space will be mostly offset from the front of the house; it will also appear further from the sidewalk due to an additional 3 feet of right-of-way between the SE Salmon St. property line and the sidewalk; and the vicinity contains other nonconforming parking spaces either due to being located in the front setback or due to garage entrances not meeting the garage entrance setback standards. Findings above show that the proposal meets the relevant approval criteria and is approved.

ADMINISTRATIVE DECISION

Approval of one Adjustment to allow an 18-foot deep parking space to be located 1-foot 6 inches from the front property rather than the required 10 feet (33.266.120.C.2.a), per the approved site plan, Exhibits C-1, signed and dated May 9, 2023, subject to the following condition:

- A. As part of the building permit application submittal, each of the 4 required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibit C.1. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 23-018278 AD. No field changes allowed."

Staff Planner: Matt Wickstrom

Decision rendered by: M Wikstrom on May 9, 2023.
By authority of the Director of the Bureau of Development Services

Decision mailed: May 15, 2023

About this Decision. This land use decision is **not a permit** for development. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on March 2, 2023, and was determined to be complete on April 3, 2023.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 2, 2023.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: August 1, 2023.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appealing this decision. This decision may be appealed to the Adjustment Committee, and if appealed a hearing will be held. The appeal application form can be accessed at <https://www.portlandoregon.gov/bds/45477>. Appeals must be received **by 4:30 PM on May 30, 2023. The completed appeal application form must be emailed to LandUseIntake@portlandoregon.gov and to the planner listed on the first page of this decision.** If you do not have access to e-mail, please telephone the planner listed on the front page of this notice about submitting the appeal application. **An appeal fee of \$250 will be charged.** Once the completed appeal application form is received, Bureau of Development Services staff will contact you regarding paying the appeal fee. The appeal fee will be refunded if the appellant prevails. There is no fee for Office of Community and Civic Life recognized organizations for the appeal of Type II and IIx decisions on property within the organization's boundaries. The vote to appeal must be in accordance with the organization's bylaws. Please

contact the planner listed on the front page of this decision for assistance in filing the appeal and information on fee waivers. Please see the appeal form for additional information.

If you are interested in viewing information in this file, please contact the planner listed on the front of this notice. The planner can email you documents from the file. A fee would be required for all requests for paper copies of file documents. Additional information about the City of Portland, and city bureaus is available online at <https://www.portland.gov>. A digital copy of the Portland Zoning Code is available online at <https://www.portlandoregon.gov/zoningcode>.

Attending the hearing. If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Adjustment Committee is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 775 Summer St NE, Suite 330, Salem, Oregon 97301-1283, or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Adjustment Committee an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

Recording the final decision.

If this Land Use Review is approved the final decision will be recorded with the Multnomah County Recorder.

- *Unless appealed*, the final decision will be recorded after **May 30, 2023** by the Bureau of Development Services.

The applicant, builder, or a representative does not need to record the final decision with the Multnomah County Recorder.

For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement and Application
 - 1. Revised Site Plan received 4-3-23
 - 2. Revised Site Plan showing uniform 17% slope of driveway received 5-4-23
- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Site Plan (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Life Safety Division of BDS
 - 2. Portland Bureau of Transportation
 - 3. Bureau of Environmental Services
 - 4. Site Development Section of BDS, Fire Bureau, Water Bureau
- F. Correspondence: None received
- G. Other:
 - 1. Original LU Application

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).